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EXAMINER

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ART UNIT PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 12

Application Number: 09/784,466
Filing Date: February 15, 2001
Appellant(s): SPURR, NIGEL VICTOR

Anna M. Shih
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 3, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

Art Unit: 3682

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-7 and 15-21 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-7 and 15-21 are rejected under 35 U.S.C. 102 (b). This rejection is set forth in prior Office Action, Paper No. 7.

(11) *Response to Argument*

The applicant's arguments are not persuasive and the prior art rejection based on Arnold et al. (US Patent 5,180,038) is maintained as described below.

In summary, Arnold et al. discloses an actuator assembly comprising a motor (50) for driving a screw (36) in rotation, the screw engaging a nut (42), the nut fixed to an output member (8), wherein rotation of the screw displaces the output member along the screw axis.

With respect to claim 1, appellant draws attention to the instant limitation defining the actuator as being operable "to apply a force in a first direction to drive said output member in the first direction from a rest condition to an actuated condition, and also being operable to apply a force in a second direction to drive said output member in the second direction from the actuated condition to said rest condition." It is understood the actuator of the present invention is operable to apply a force to the output member in two opposite directions. In fact, it appears the primary argument for the appeal is based on the notion that the actuator (or motor) of Arnold et al. is not configured to displace the output member in two opposite directions. For example, applicant argues that the

motor of Arnold et al. drives the output member in the left direction and the spring drives the output member in the right direction (last full paragraph of page 4 and the paragraph spanning pages 4-5). Examiner respectfully disagrees with this assessment of the prior art because the output member of Arnold et al. is configured to be displaced in opposite directions.

First, attention is directed to lines 65+ in column 3 of Arnold et al. describing the motor for driving the screw as a "reversible motor." Accordingly, it is understood the reversible motor can drive the screw in opposite rotational directions, and therefore is considered to be "operable" to provide a force to the output member in opposite directions.

Attention is drawn to the claim limitation defining the actuator as being "operable to apply a force in a first direction" and "operable to apply a force in a second direction" (claim 1). The term "operable" is defined as "capable of being used or operated" and "capable of being put into practice" (The American Heritage Dictionary, second college edition). Accordingly, it is submitted the reversible motor of Arnold et al. is capable of driving the output member in either a first direction or is capable of driving the output member in a second direction regardless of the spring force.

Claim 5 of Arnold et al. recites "said electric motor is a reversible direct-current motor (50); and further including means for operating said motor when said movable member is in the brake-applied position to further drive the movable member in the brake-applied direction." In other words, after the spring drives the output movable

Art Unit: 3682

member in the right direction, the motor is configured to further drive the movable member in the right direction to ensure adequate braking of the vehicle.

Examiner notes the written disclosure of Arnold et al. (lines 33+ of column 6) which recites "[i]f desired, during this movement of the movable member 8 to the right towards the brake-actuated position, the electric motor 50 may be operated via master control 100, dynamic braking control means 104, drive logic means 102, and motor/solenoid drive means 104 to control the speed of return travel of the movable member." However, this passage does not preclude the device, if desired, from being configured so the motor drives the movable member in the right direction.

With respect to claims 5-7, the arguments are not persuasive because Arnold et al. discloses a friction detent mechanism (70) arranged to releasably retain the actuator assembly in a predetermined position, the friction detent positioned to engage the screw shaft (36) such that the detent mechanism operatively acts upon the output member by way of the screw shaft, and the detent configured as a spring which acts substantially perpendicular to the direction of movement of the output member. Further, the arguments are not commensurate with the scope of the claims and therefore the rejection is proper. For example, applicant argues "the clutch spring 70 is mounted on the drive screw 36, not on the movable member 8" (last section on page 7). It is noted that claims 5-7 do not define the mounting position of the detent, but only recites "the detent mechanism acts upon the output member" (claim 6). It is understood the detent

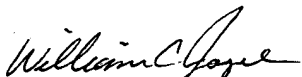
Art Unit: 3682


of Arnold et al. indirectly acts on the output member by way of the screw to restrict movement of the output member, and therefore meets the claim language.

It is submitted the claim limitations do not define over the prior art to Arnold et al. because it was known to provide an actuator device with a reversible direct current motor capable of driving the movable output member in opposite directions.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


William C. Joyce
April 29, 2003

Conferees
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